

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of

Hunt Broadcasting Group, Inc.  
Doniphan, Missouri

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File No. EB-02-KC-587  
NAL/Acct. No. 200232560026  
FRN 0006-1631-09

**FORFEITURE ORDER**

**Adopted: December 17, 2003**

**Released: December 19, 2003**

By the Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of three thousand dollars (\$3,000) to Hunt Broadcasting Group, Inc. (“Hunt”), licensee of radio stations KPWB(AM) and KPWB-FM, located in Piedmont, Missouri, for willful violation of Sections 73.49, 73.1350(b)(2), 73.1350(c), 11.35(a), 73.3526(e)(5), 73.3526(e)(6), and 73.3526(e)(12) of the Commission’s Rules (“Rules”).<sup>1</sup> The noted violations involve Hunt’s failure to provide an effective locked fence enclosing the base of station KPWB(AM)’s antenna, failure to provide transmitter control and monitoring capabilities, failure to maintain operational Emergency Alert System (“EAS”) equipment, and failure to maintain all required items in the joint public inspection file for KPWB(AM) and KPWB-FM.

**II. BACKGROUND**

2. On September 30, 2002, the Commission’s Kansas City, Missouri Office (“Kansas City Office”) released a *Notice of Apparent Liability for Forfeiture* (“NAL”) to Hunt for a forfeiture in the amount of nineteen thousand dollars (\$19,000).<sup>2</sup> Specifically, the NAL proposed the following forfeitures for Hunt’s apparently willful violations of the Rules: Section 73.49 (\$7,000 - failure to provide an effective locked fence enclosing the base of station KPWB’s AM antenna); Sections 73.1350(b)(2) and 73.1350(c) (\$3,000 – failure to provide transmitter control and monitoring capabilities for the KPWB-FM transmitter); Section 11.35(a) (\$4,000<sup>3</sup> – failure to maintain operational Emergency Alert System

<sup>1</sup> 47 C.F.R. §§ 73.49, 73.1350(b)(2), 73.1350(c), 11.35(a), 73.3526(e)(5), 73.3526(e)(6), and 73.3526(e)(12).

<sup>2</sup> See *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200232560026 (Enf. Bur. Kansas City Office, September 30, 2002).

<sup>3</sup> The base forfeiture amount for this violation is \$8,000. The District Director of the Kansas City Office applied a 50% downward adjustment because the EAS equipment was capable of monitoring one of the required two sources.

("EAS") equipment); and Sections 73.3526(e)(5), 73.3526(e)(6), and 73.3526(12) (\$5,000<sup>4</sup> – failure to maintain all required items in the station's public inspection file).

3. Hunt filed its response to the *NAL* on October 24, 2002. Hunt's response essentially admits the violations. However, Hunt explains how it has corrected the violations, and seeks cancellation of the forfeiture based upon its inability to pay.

### III. DISCUSSION

4. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended ("Act"),<sup>5</sup> Section 1.80 of the Rules,<sup>6</sup> and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.<sup>7</sup> In examining Hunt's response, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>8</sup>

5. Based on the findings of the *NAL* regarding Hunt's violation of Sections 73.49, 73.1350(b)(2), 73.1350(c), 11.35(a), 73.3526(e)(5), 73.3526(e)(6), and 73.3526(e)(12) of the Rules and Hunt's response thereto, we find that Hunt's violations were willful.<sup>9</sup> In support of its request for cancellation, Hunt points out that it has taken all necessary steps to correct the violations and submits federal income tax returns for tax years 1999, 2000, and 2001 to demonstrate its inability to pay the monetary forfeiture. We note that remedial actions taken to correct the violations, while commendable, are not mitigating factors.<sup>10</sup> However, after reviewing the financial documentation, we conclude that reduction of the \$19,000 forfeiture to \$3,000 is warranted in this case.

### IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,<sup>11</sup> Hunt Broadcasting Group, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of three thousand dollars (\$3,000) for its violation of Sections 73.49, 73.1350(b)(2), 73.1350(c), 11.35(a), 73.3526(e)(5), 73.3526(e)(6), and 73.3526(e)(12) of the Rules.

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<sup>4</sup> The base forfeiture amount for his violation is \$10,000. The District Director of the Kansas City Office applied a 50% downward adjustment because station KPWB maintained a portion of the required items in the public inspection file.

<sup>5</sup> 47 U.S.C. § 503(b).

<sup>6</sup> 47 C.F.R. § 1.80.

<sup>7</sup> 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

<sup>8</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>9</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful,' ... means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act ...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>10</sup> See, e.g., *AT&T Wireless Services, Inc.*, 17 FCC Rcd 21866, 21871 (2002); *Seawest Yacht Brokers*, 9 FCC Rcd 6099 (1994); *Station KGVV, Inc.*, 42 FCC 2d 258, 259 (1973).

<sup>11</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

7. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.<sup>12</sup> Payment may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200232560026 and FRN 0006-1631-09. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>13</sup>

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Hunt Broadcasting Group, Inc., 204 East Washington, Doniphan, Missouri 63935.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

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<sup>12</sup> 47 U.S.C. § 504(a).

<sup>13</sup> See 47 C.F.R. § 1.1914.